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Rome, 25th February 2004
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Dear Ms Pondi,

further to our previous communication sent on January 14, 2003 in the framework of the Comments on the Notice of proposed Rulemaking FCC 02-285, I am pleased to confirm in the enclosed document the Telecom Italia Group's position on the issue of the Mobile termination tariffs in Europe. The document includes updated figures showing the significant decrease in the mobile termination tariffs in Europe and particularly in Italy.

Confident that you can share with us the relevance of the issue and the considerations developed in the document, we remain at your disposal for any additional information you may need in this regard.

Yours sincerely,

Romano Righetti

Encl.

Ms. Jacky Pondi
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Telecom Italia Group's position on Mobile Termination Rates

Telecom Italia Group ("TIG") is active in ICT sector, in particular wireline and wireless telephony, Information Marketing and directories, in Italy and abroad The Group's activity deployed abroad is mainly focused in the provision of wireless business

In January 2003, TIG replied to the FCC's Notice of Proposed Rulemaking 02-285 and sent to the USTR its commentary in the framework of the review of the status of compliance with international trade agreements.

Here below, TIG intends to confirm some considerations already developed in relation to the issue of Mobile termination tariffs in Europe, and to provide updated figures which may help to better assess the on-going development of the European situation.

Our considerations will be particularly focused on Italy, where the National Regulatory Authority is implementing a regular trend towards the reduction of tariffs and where the market situation is fully compliant with the provision of the WTO General Agreement on Trade and Services.

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In most countries with developed fixed communications infrastructure such as Europe, the cost of originating and terminating mobile calls has been higher with respect to the cost of transporting calls on the fixed network (as opposed to some developing countries in which the cost of mobile network is lower than the fixed network). This is reflected in the higher retail rates of calls from a mobile network with respect to the retail rates of calls from a fixed network This is also reflected in the interconnection charges of terminating calls on a fixed network vs the interconnection charges of terminating calls on a mobile network in countries with a "calling party pays" regime since the call reflects the underlying costs.

This difference is mainly due to the fact that mobile network technological progress entails relentless investments to be made in order to cope with constant service upgrade across various mobile networks generation. As a consequence, economic cost estimates may be found higher than accounting costs, as documented by OFTEL[1]

Regardless the level of the charges involved, EU Regulation enforces a **non-discrimination rule** between interconnection rates for call termination that mobile carriers can charge regardless of whether the call is originated nationally or internationally.

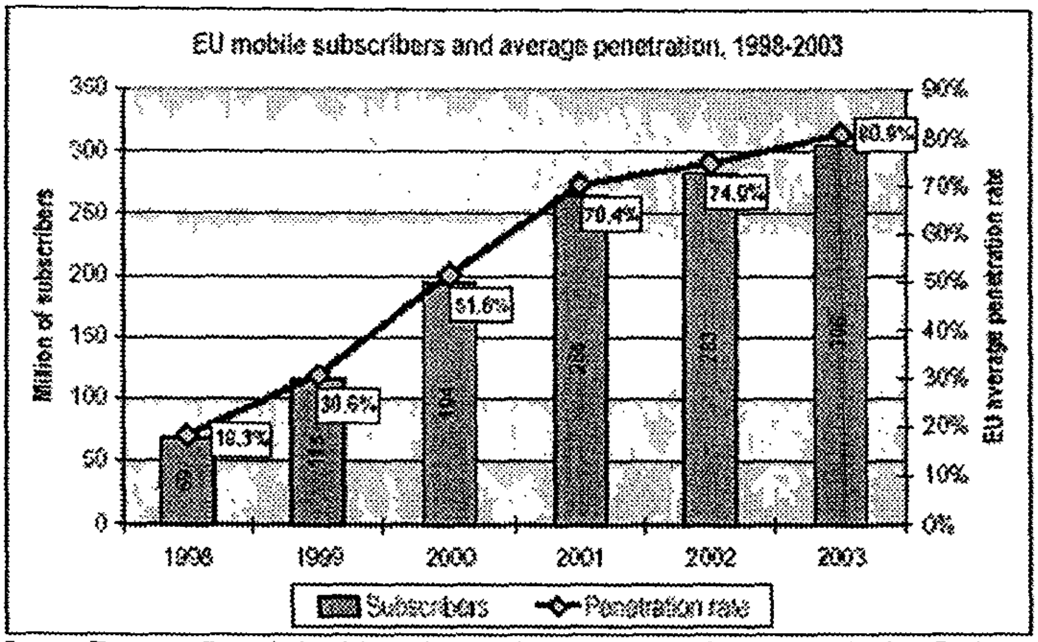
Despite sensible differences among regulatory regimes in most of the considered countries, non discrimination of mobile termination charges among national and

[1] Office of Telecommunications (2002), Accounting depreciation cost based estimates, letter to Competition Commission, 3 May 2002. Available at
http //www oftel gov.uk/publications/mobile/ctm_2002/account_let0502 pdf

international services is granted everywhere, except in the case of serious influence exerted by macroeconomic effects (ie currency devaluation).

Concerning in particular the mobile pricing model of Calling Party Pays, it has to be borne in mind that·

- this model has lead to recognized advances in mobile penetration, often crucial to involve the biggest possible number of users. The graph below shows the penetration level of mobile users in Europe where a CPP regime has been implemented since the beginning, whereas the mobile penetration level in the US at the end of 2001 is estimated at around 47-49%[2].



Source· European Commission 9th Implementation Report on the Telecommunications Package

- the adoption of such a model is contained in many national regulatory rules, hence any attempt to quest for its modification for alleged anticompetitive effects should be submitted to competent international bodies, such as WTO, where appropriate instruments exist to solve those controverted matters.

a) In interconnection regimes such as the US, the cost of using the mobile network is typically higher than the cost using a fixed network but since there is a "receiving party pays" arrangement, mobile users pay the extra cost for both outgoing and incoming calls from the fixed network. Actually, it can be argued that if a call is made from a mobile to a mobile phone of the same network, the mobile operator is remunerated twice for the same call and therefore the US mobile customer is penalized incurring in higher costs Therefore, if we apply a non discrimination rule, if the mobile user in the US pays for incoming calls, it should not discriminate on whether the call is originated in the US or abroad. It is true that the mechanisms of the "receiving party pays" interconnection cause US mobile customers to pay for the extra cost of terminating a foreign originated call to a US mobile phone, but this is also true in the case of a call originated in the US

[2] Source Telephia

Therefore, if the FCC is concerned about the higher costs incurred by US customers, it should first act on the national market by removing these distortions in order to be coherent

b) In Europe, the costs of interconnection on the fixed and mobile networks are regulated by National Regulatory Authorities which have the power to impose reductions on the rates proposed by dominant fixed and mobile operators. While until recently, focus of EU regulation had been on fixed incumbent operators, the mobile termination issue is becoming more and more relevant as the growth of mobile telephony in terms of subscribers has in most cases equaled or exceeded the number of fixed lines. In the past year, most European NRAs have taken action or are planning to take action in reducing mobile termination charge

As already mentioned, in most European countries, the European Commission and the National Regulatory Authorities, are regularly addressing the issue of the level of mobile termination tariffs

Particularly in Italy, the National Regulatory Authority, AGCOM, implemented in February 2003 a further tariff manoeuvre, setting the average tariff at 14.95 euro-cent. This manoeuvre led to a reduction of 25% in the mobile termination tariffs in Italy.

This decrease has been acknowledged by the EU Commission, which, in its IX Implementation Report of 2003, stated that "Since August 2002, average interconnection charges for SMP operators has decreased by 15.3%, while for non-SMP operators has increased slightly. **The main decreases in the charges since August 2002 have been achieved in Italy** (-25% for one SMP operator), in France and Spain (around –18% for both SMP operators), in Ireland -13% for the SMP operator Vodafone), in Belgium (-14% for one SMP operator) and in Greece, where charges have decreased on average by 9% for the four non-SMP operators, after intervention by the NRA".

In particular, the EU Commission considers that "In August 2003 the EU weighted average interconnection charge for terminating a call on mobile networks was 15.93 euro-cents for the 16 European mobile operators declared by the NRA as having significant market power on the national market for interconnection (SMP). It was 18.98 euro-cents for the remaining 34 mobile operators (covering 55% of the EU market)
The difference in charges between the two classes of operators has arisen mostly during the past year as a result of regulatory intervention by NRAs to bring about cost orientated charges for SMP operators.
On the other hand, fixed–to–mobile interconnection charges have increased in the Netherlands by 10% for one operator.
The difference between the level of the charges for SMP and non-SMP operators can be explained by the increased number of SMP operators (which now account for 45% of EU subscribers compared to 41% in 2002), but mostly by the cost orientation requirement for interconnection charges on SMP operators It should be noted that even for non-SMP operators, interconnection charges are sometimes set by the NRAs, for example as a result of intervention on the basis of a competition enquiry or to set a price ceiling to avoid excessive tariffs.

c) US international carriers and European international carriers are in the same bargaining position with regards to termination rates to be paid to mobile operators since, as previously said, no discrimination is possible between national and international interconnection Furthermore it is unlikely that European mobile operators may abuse of their dominant position, considering the reduction of the termination charges granted by mobile operators in the past years, following competitive pressure and regulatory interventions. Moreover, the EU Commission is called upon to constantly monitor the market behavior of operators and to apply EU competition rules if a European operator would be considered to abuse its dominant position.

d) Being the level of mobile tariffs an issue that needs to be dealt with on a national level and not related to discrimination practices between US Carriers and non US carriers, we believe that any action the FCC might take in its jurisdiction would prove to be non effective. A possibility would be to issue a benchmark order similar to the one on International Settlement Rates for the maximum level of mobile termination tariffs that US carriers would be able to negotiate for bilateral agreements between US and foreign operators Nevertheless, this would lead to US carriers refiling their outgoing traffic to mobile operators but not being able to obtain better conditions. In fact in competitive national mobile markets, such as the European, all the operators apply –often because of a legal and/or a regulatory provision -the same termination charges which are being progressively reduced and brought in line with their costs by NRAs, in a non discriminatory way. As a paradox, forcing US carriers to refile traffic terminating in one country (country A) to foreign mobile operators offering services in another country (country B) is clearly inconvenient. This would imply extra cost since US carriers would have to pay in addition to the mobile termination charge to the international fixed or mobile operator in country A, an additional transit fee to the operator in country B.

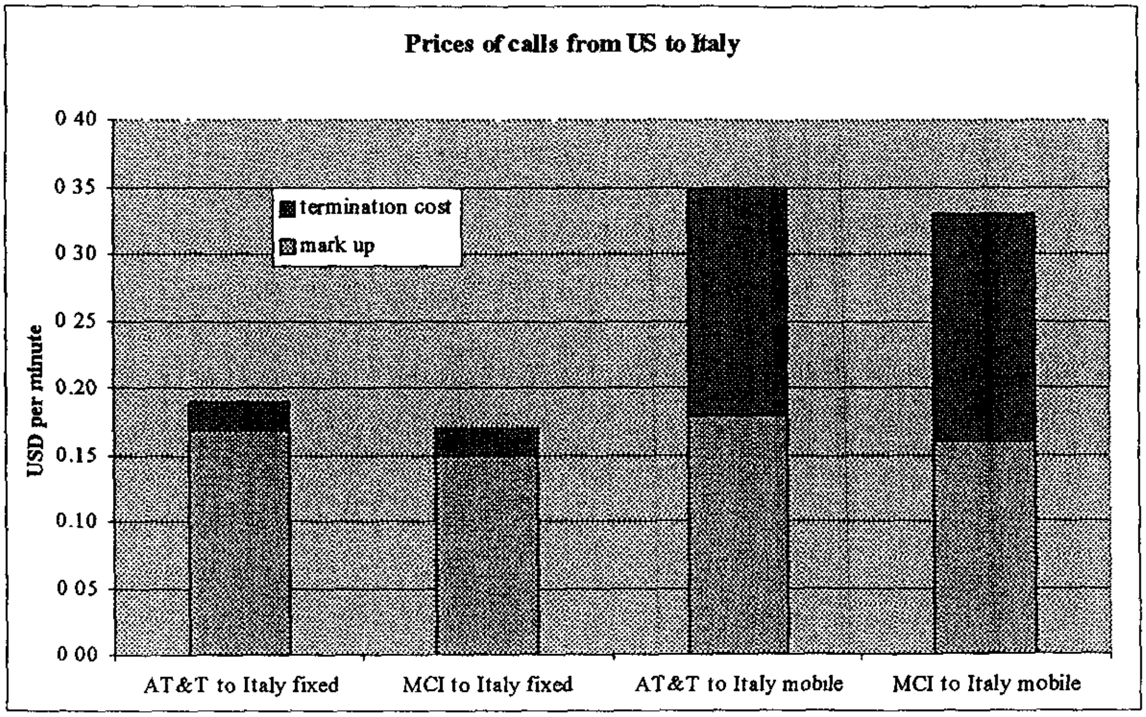
   It is important to note that while the FCC benchmark order had a tangible effect on the revenues of operators to which it applied which were losing the traffic from US carriers and therefore the potential incoming revenues derived from it, in case of mobile foreign operators, a benchmark order would not harm the mobile operators which would in any case receive the same amount of revenue through other carriers

e) This applies to countries, like Italy and other EU countries, where.
   1. there is a calling party pays regime;
   2. there are rules which ensure non discrimination of interconnection conditions offered by dominant operators to international and national carriers;
   3. there is a liberalized telecommunications market both for fixed and mobile telecommunications;
   4 there is regulation in place which ensures cost orientation or regulatory controls over interconnection tariffs of dominant operators (both fixed and mobile),

f) In other countries where for example there is a monopoly or competition is still limited or there is a called party pays regime, and the regulation in place does not ensure a reduction trend of interconnection charges and non discrimination between national and international operators, it is important to encourage the application of consistent regulatory measures (to be fine tuned with other relevant features of national markets) aimed at promoting the application of fair and sustainable rates.

g) The level of prices of international calls to mobile phones is not only due to the price of the termination paid to the foreign mobile operator but also on the mark-up applied by the US carrier to its termination costs. US carriers apply a mark up of **more than 10 US cents on international calls to Italy**, as shown on the following table[3].

For the reasons stated above, Telecom Italia considers that not only AGCOM – which is by Law a public agency independent from the Italian Government - has so far carried out its mandate in full compliance of international trade agreements and of EU Directives, but also that the Italian market mechanisms have fully anchored TIM's termination rates to a very competitive environment.
It must also be noted that no proceedings has been launched in the EU or in Italy against TIM for its termination rates, underlining TIM's complete compliance with domestic and European laws and regulations.



[3] Based on data for international calls published on www.att.com and www.mci.com The prices include the monthly subscription of USD 2.99 for AT&T and USD 2.95 for MCI based on an assumption of 20 international calls per month per residential customer with average duration of 3 minutes

Finally, we confirm that US consumers should be made more aware of the cost of calling an international mobile phone, since few US carriers adequately advertise this issue. In many cases, on US carriers' website the cost of international calls to a specific country (ie. Italy) which is shown is that of a call to the fixed network and only in a small footnote at the end of the page it is written that in some cases mobile termination surcharges apply.

We are fully confident that the considerations developed above, i.e the structure of the regulatory framework and the structure of termination in particular, will be taken in due consideration in the assessment of the competitiveness of Mobile termination market in Europe.